

JAN 26 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MIGUEL ANGEL LEON,

Defendant - Appellant.

No. 08-50066

D.C. No. CR-06-01905-BEN-1

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Roger T. Benitez, District Judge, Presiding

Submitted January 13, 2009^{**}

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Miguel Angel Leon appeals from the 36-month sentence imposed following his guilty-plea conviction for transporting illegal aliens and aiding and abetting, in

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 8 U.S.C. § 1324(a)(1)(A), (v)(II). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Leon contends that the government breached the plea agreement by asserting that he drove the truck used to transport the aliens and that the matter should be remanded to a different judge for specific performance of the plea agreement. We conclude that the government did not breach the plea agreement. *See United States v. Maldonado*, 215 F.3d 1046, 1051-52 (9th Cir. 2000).

AFFIRMED.